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Applicant: Thakkar
Appl. No.: 10/599,854
International Filing Date: April 7, 2005
Title: FLEXIBLE NAIL ASSEMBLY FOR FRACTURES OF LONG BONES
Attorney Docket No.: TKKR-001
Pub. No.: 2007/0173834 A1
Pub. Date: July 26, 2007

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on September 4, 2007, for the above-identified application.

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors wherein the application was published with only 12 claims, but the application was filed with 17 claims.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The instant request does not identify a mistake in the publication made by the Office under 37 CFR 1.221(b) with respect to the printing only 12 claims. The instant application is a National Stage entry of a PCT application and it was correctly printed with 12 claims as 12 claims are currently pending in the application. The application was original filed with claims 1-16, which were amended and replaced with claims 1-12 via an Article 19 amendment.

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

Applicant is reminded of his duty to conduct a reasonable inquiry before filing a paper before the Office. See MPEP 410.

Applicants' request for a corrected patent application publication on September 4, 2007 may constitute a "failure to engage in reasonable efforts to conclude processing or examination of the application." See 1.704(c). This determination will be made on or after a mailing of a Notice of Allowance.

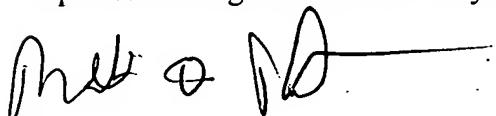
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709.



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